

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**AT NASHVILLE, TENNESSEE**

**May 13, 2004**

**IN RE:**

**UNITED CITIES GAS COMPANY, a Division of  
ATMOS ENERGY CORPORATION  
INCENTIVE PLAN ACCOUNT (IPA) AUDIT**

**PETITION OF UNITED CITIES GAS COMPANY  
TO AMEND THE PERFORMANCE BASED  
RATEMAKING MECHANISM RIDER TO ITS TARIFF**

**DOCKET NO.  
01-00704**

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**ORDER AMENDING PROCEDURAL SCHEDULE**

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This matter came before the Hearing Officer at a Status Conference held on May 10, 2004, to address Objections to Discovery filed by the Staff of the Energy and Water Division of the Tennessee Regulatory Authority ("Staff") and United Cities Gas Company (hereinafter "Atmos Energy Corporation" or "Atmos") on May 4, 2004, in response to Interrogatories and Requests for Production filed by the Consumer Advocate and Protection Division ("Consumer Advocate") on April 30, 2004.

**Procedural History**

On March 8, 2004, Staff and Atmos jointly filed a *Motion to Consolidate and to Approve Settlement Agreement*. On March 26, 2004, the Consumer Advocate and Protection Division ("Consumer Advocate") filed a *Motion for Extension of Time to Respond to the Motion to Consolidate and to Approve Settlement Agreement*, which included a request for summary denial of the *Motion to Consolidate and to Approve*

*Settlement Agreement* or, in the alternative, additional discovery and supporting material for the *Motion to Consolidate and to Approve Settlement Agreement* prior to the Consumer Advocate filing its response.

At the Status Conference held on April 22, 2004, the Hearing Officer granted the *Motion to Consolidate and to Approve Settlement Agreement* in part, but only to the extent that Docket No. 02-00850 and Docket No. 01-00704 were ordered to be consolidated and all future filings in these matters were ordered to occur in Docket No. 01-00704. The remainder of the motion requesting approval of the settlement agreement was held in abeyance pending additional discovery and a hearing.

In its *Motion for Extension of Time to Respond to the Motion to Consolidate and to Approve Settlement Agreement*, the Consumer Advocate requested summary denial of the *Motion to Consolidate and to Approve Settlement Agreement* or, in the alternative, additional discovery and supporting material for that motion prior to the Consumer Advocate filing its response. Based upon the arguments presented by the Parties at the April 22, 2004 Status Conference, the Hearing Officer found the Consumer Advocate's request for additional time to respond and for additional discovery prior to that response was well-taken, but the Consumer Advocate's request for a summary denial of the joint motion and request for the joint motion to be supplemented with supporting material should be held in abeyance pending additional discovery and a hearing. Therefore, the *Motion for Extension of Time to Respond to the Motion to Consolidate and to Approve Settlement Agreement* was granted in part, but only to the extent of allowing additional discovery and an extension of time for the Consumer Advocate to respond. By agreement of the Parties, additional discovery was limited to the issue of "whether the

proposed settlement agreement is in the public interest.” A Procedural Schedule, proposed by the Parties and approved by the Hearing Officer, was issued on April 28, 2004, setting forth the deadlines for discovery and including a Status Conference to be held on May 10, 2004, to address any Objections to Discovery Requests.

**May 10, 2004 Status Conference**

At the Status Conference on May 10, 2004, each Objection filed by either Staff or Atmos was discussed. Following a lengthy discussion of the Objection filed by Staff and Atmos to Interrogatory No. 1 filed on each respectively, the Hearing Officer ordered that Staff and Atmos supplement their responses to Interrogatory No. 1 and address the applicable standard upon which they intend to rely for approval of the settlement agreement and for approval of the amendment to the tariff.

The Consumer Advocate moved for denial of the *Motion to Consolidate and to Approve Settlement Agreement* on the basis that the grounds stated in that motion were inappropriate and inapplicable. The Hearing Officer ordered the Consumer Advocate’s Motion for Denial to be held in abeyance until May 17, 2004, when it may be filed with the Consumer Advocate’s response to the *Motion to Consolidate and to Approve Settlement Agreement*.

A revised Procedural Schedule was discussed to allow for the filing of Supplemental Responses by Staff and Atmos to Interrogatory No. 1 and any Motion to Compel that the Consumer Advocate may file and Responses by Staff and Atmos thereto. No Party objected to the proposed schedule. The Hearing Officer ordered that the procedural schedule previously filed on April 28, 2004, which remains in effect, will have the following deadlines added:

<b>May 11, 2004</b>	Staff and Atmos will file a supplemental response to Interrogatory # 1 with the TRA and serve on all Parties by the close of business
<b>May 12, 2004</b>	Consumer Advocate will file any Motion to Compel with the TRA and serve on all Parties by 12 noon (central)
<b>May 12, 2004</b>	Staff and Atmos will file any Response to a Motion to Compel with the TRA and serve on all Parties by the close of business

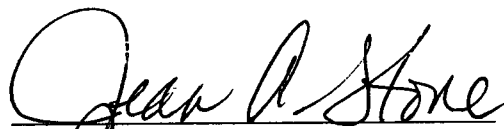
In addition, the Procedural Schedule was amended to reflect the following new time for filing:

<b>May 17, 2004</b>	Consumer Advocate's Response to the <i>Motion to Approve Settlement Agreement</i> shall be filed with the TRA and served on all Parties by the close of business
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**IT IS THEREFORE ORDERED THAT:**

1. The Staff of the Energy and Water Division is ordered to supplement its response to Interrogatory No. 1 as indicated above by the close of business on May 11, 2004.
2. Atmos Energy Corporation is ordered to supplement its response to Interrogatory No. 1 as indicated above by the close of business on May 11, 2004.
3. The Consumer Advocate's Motion for Denial is held in abeyance until May 17, 2004, when it may be filed with the Consumer Advocate's Response to the *Motion to Consolidate and to Approve Settlement Agreement*.

4. The Procedural Schedule is amended as set forth above.

  
Jean A. Stone, Hearing Officer